



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 24 2013

CERTIFIED MAIL 7009 1680 0000 7679 5999
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Mr. Scott Maris
Vice President
Michigan Disposal, Inc.
36255 Michigan Avenue
Wayne, Michigan 48184

Re: Consent Agreement and Final Order
Michigan Disposal, Inc.
EPA ID No.: MID000724831
Docket No.: RCRA-05-2013-0007

Dear Mr. Maris:

Enclosed, please find a copy of the fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on June 24, 2013, with the Regional Hearing Clerk. Please pay the civil penalty in the amount of \$390,124 in the manner prescribed in paragraphs 46-51 of the CAFO, and reference all checks with the docket number RCRA-05-2013-0007.

Your payment is due within 30 calendar days of the effective date of the CAFO.

Enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

Gary J. Victorine
Chief,
RCRA Branch

Enclosures

cc: (1) Jeffrey Woolstrum, Esq (w/CAFO)
Honigman Miller Schwartz and Cohn LLP
2290 First National Building
660 Woodward Avenue
Detroit, Michigan 48226-3506

- (2) Elizabeth Browne, MDEQ (brownee@michigan.gov) (w/ CAFO)
- (3) John Craig, MDEQ (craigj@michigan.gov) (w/CAFO)
- (4) Tracy Kecskemiti, MDEQ (kecskemitit@michigan.gov) (w/CAFO)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

) Docket No. RCRA-05-2013-0007
)
)

Michigan Disposal, Inc.

[d/b/a Michigan Disposal Waste Treatment
Plant]

RECEIVED
JUN 24 2013

Belleville, Michigan

) Proceeding to Assess a Civil
) Penalty Under Section 3008(a) of
) the Resource Conservation and
) Recovery Act, 42 U.S.C. § 6928(a)

EPA ID: MID 000 724 831

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Michigan Disposal Inc. (MDI), doing business as the Michigan Disposal Waste Treatment Plant (MDWTP) in the State of Michigan.

5. Under 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations or the legal conclusions in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal or judicial review of this CAFO.

11. Respondent certifies that, to the best of its knowledge, it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the implementing regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. U.S. EPA promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste and used oil, pursuant to sections 3001-3007 and 3013 of RCRA, 42 U.S.C. §§6921-6927 and 6934.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C of RCRA (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

16. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004, and a civil penalty up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred

after January 12, 2009.

General Allegations

17. MDI is a corporation authorized to do business in the State of Michigan and is doing business as MDWTP.

18. MDI owns and operates the MDWTP RCRA-permitted hazardous waste storage and treatment facility (MDWTP facility) located at 49350 North I-94 Service Drive, Belleville, Michigan, 48111 with EPA Hazardous Waste Identification number MID 000 724 831. The Michigan Department of Environmental Quality (MDEQ) issued the RCRA hazardous waste permit on October 31, 2007. A waste analysis plan (WAP) is included as Attachment 1 to the MDWTP RCRA Permit.

19. Respondent is and was a "person" as defined by MAC 299.9106(i), and 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

20. The MDWTP facility is a "facility" as that term is defined by MAC 299.9103(r), and 40 C.F.R. § 260.10.

21. Respondent is subject to the applicable hazardous waste regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §6921 – 6939 and/or the analogous authorized Michigan hazardous waste regulations.

22. From June 10, 2008, through June 19, 2008, representatives of U.S. EPA Region 5, the U.S. EPA National Enforcement Investigations Center (NEIC), and MDEQ conducted a multimedia compliance investigation of the MDWTP facility.

Count 1

23. Complainant incorporates paragraphs 1 through 22 of this Complaint as though set forth in this paragraph.

24. The MDWTP RCRA Permit, Part II, Section O requires compliance with all of the requirements of 40 C.F.R. Part 268 (MAC 299.9627), known as the land disposal restrictions or LDRs.

25. 40 C.F.R. § 268.40(e) prohibits the land disposal of hazardous waste unless the underlying hazardous constituents (UHC) in the hazardous waste have been treated to meet the universal treatment standards (UTS) requirements contained in 40 C.F.R. 268.48, table entitled "Treatment Standards for Hazardous Waste."

26. The relevant UTS for this Count are as follows:

Toluene	10 mg/kg
Tetrachloroethene	6 mg/kg
Cadmium	0.11mg/kg
Chromium	0.6 mg/kg
Zinc	4.3 mg/kg

27. On June 16 and 17, 2008, EPA collected random samples from MDWTP treatment batches 25852, 25854, 25855 and 25858. The samples were analyzed at NEIC's lab in Denver, Colorado.

28. EPA's sampling analytical results for batches 25852, 25854, and 25855 demonstrated that the MDWTP facility failed to meet the LDR UTS standards for toluene, tetrachloroethene, cadmium, chromium and/or zinc prior to removal of the batches from the treatment building. Batch 25852 was shipped to and disposed of at the Carlton Farms landfill as non-hazardous waste on June 18, 2008.

29. Respondent failed to include an LDR notification or to include data required pursuant to 40 C.F.R. § 268.7(a)(1) with the shipment of batch 25852 sent to Carlton Farms Landfill.

30. On June 18, 2008, Batches 25854 and 25855 were removed from the treatment

building at MDWTP and taken to Site No. 2, Master Cell VI at Wayne Disposal Inc.'s (WDI's) landfill. These batches were isolated at the WDI landfill and were subsequently exhumed, retreated at MDWTP and redispersed at the WDI landfill. Respondent did not include an LDR notification pursuant to 40 C.F.R. § 268.7(a)(1) with these shipments.

31. EPA alleges that Respondent, therefore, violated the MDWTP RCRA Permit, Part II, Section O and 40 C.F.R. § 268.40(e) when it sent for land disposal batches 25852, 25854 and 25855 which did not meet the UTS as alleged in this Count 1.

Count 2

32. Complainant incorporates paragraphs 1 through 22 of this Complaint as though set forth in this paragraph.

33. MDWTP RCRA Permit, Part II, Section A.1 requires that wastes handled at MDWTP be properly characterized and comply with the WAP.

34. MDWTP RCRA Permit, WAP, Part II, Section O requires compliance with all of the requirements of 40 C.F.R. Part 268.

35. 40 C.F.R. § 268.48 prohibits the disposal of hazardous wastes unless the concentrations of the hazardous constituents found in the waste are below the levels specified in the table "Treatment Standards for Hazardous Wastes" (UTS table).

36. From July 2007 through June 2008, Respondent added leachate generated from WDI's Site No. 2, Master Cell VI to batches of hazardous waste treated at the MDWTP facility. The batches at the MDWTP facility contained waste characterized as hazardous due to their toxicity for metals. The leachate was a listed hazardous waste designated as F039.

37. From July 2007 through June 2008, the leachate contained acetone, benzene, toluene, phenol, 1,1-dichloroethane and other hazardous constituents in concentrations above the

UTS for these constituents.

38. Detection limits for a number of hazardous constituents in the leachate were higher than the concentration limit for that hazardous constituent in the UTS table.

39. From May to June 2008, thirteen batches of hazardous waste were mixed at the MDWTP facility with leachate generated at the WDI hazardous waste landfill. The batch numbers were 25715, 25723, 25729, 25738, 25744, 25754, 25765, 25771, 25776, 25777, 25785, 25790 and 25805. These batches were subsequently disposed at the WDI landfill.

40. Respondent's chemical analyses used to determine if the thirteen batches met the UTS concentrations were deficient because they either did not include analyses of semi-volatile chemicals found in the leachate or the detection limits were higher than the concentration limits for that hazardous constituent in the UTS table.

41. The Respondent did not test the thirteen batches for all of the applicable UTS constituents required of F039 hazardous waste prior to disposing of the treated batches as required by MDWTP Permit, WAP Sections 3.8.2, 4.2 and 4.4 and 40 C.F.R. § 268.48.

42. The Respondent did not conduct pre-approval treatability studies to verify that batch wastes could be treated with F039 leachate to meet LDR standards as required by MDWTP Permit, WAP, Section 3.7.3.

43. The Respondent did not perform chemical assays of F039 leachate prior to its use in treatment processes at the MDWTP facility as required by the MDWTP Permit, WAP, Section 6.3.5.

44. Prior to land disposal of batches treated with leachate, Respondent did not demonstrate that the LDR UTSs for applicable constituents in F039 had been met, as required under MDWTP RCRA Permit, Part II, Section O and 40 C.F.R. § 268.48.

45. EPA alleges that Respondent, therefore, violated MDWTP RCRA Permit, Part II Section A.1 and O, 40 C.F.R. § 268.48 and MDWTP RCRA Permit, WAP, Sections 3.7.3, 3.8.2, 4.2, 4.4 and 6.3.5.

Civil Penalty

46. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$390,124. In determining the penalty amount, Complainant took into account the seriousness of the violations and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's *RCRA Civil Penalty Policy*, dated June 23, 2003.

47. Within 30 days after the effective date of this CAFO, Respondent must pay a \$390,124 civil penalty for the RCRA violations.

48. Respondent agrees to pay the penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the case title and the docket number of this CAFO.

49. This civil penalty is not deductible for federal tax purposes.

50. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity,

amount, and appropriateness of the civil penalty are not reviewable in a collection action.

51. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

52. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

53. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

54. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

55. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, the U.S. EPA's RCRA Civil Penalty Policy, and the U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

56. The terms of this CAFO bind Respondent, its successors, and assigns.

57. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

58. Each party agrees to bear its own costs and attorney's fees in this action.

59. This CAFO constitutes the entire agreement between the parties.

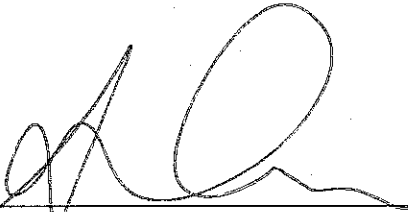
60. This CAFO shall become effective immediately upon filing with the Regional

Hearing Clerk.

61. This CAFO shall terminate upon payment of the required penalty amount as set forth above.

Michigan Disposal, Inc., Respondent


5/3/13
Date



Person's name and Title
Michigan Disposal, Inc.
Scott Maris, VP

United States Environmental Protection Agency, Complainant

6/13/2013
Date



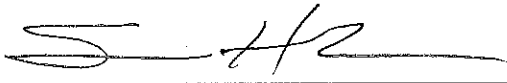
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of: RCRA-05-2013-0007
Michigan Disposal, Inc.
d/b/a Michigan Disposal Waste Treatment Plant

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

6-13-13
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5



JUN 24 2013

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

IN THE MATTER OF:
Michigan Disposal, Inc.
Belleville, Michigan

RCRA-05-2013-0007

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

Certified Mail #: 7009 1680 0000 7679 5999

Mr. Scott Maris
Vice President
Michigan Disposal, Inc.
36255 Michigan Avenue
Wayne, Michigan 48184

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JUN 24 2013

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

First Class, non-certified mail:

Jeffrey Woolstrum, Esq.
Honigman Miller Schwartz and Cohn LLP
2290 First National Building
660 Woodward Avenue
Detroit, Michigan 48226-3506

Dated: 6/24, 2013

Gaye Cuerington
Gaye Cuerington
Administrative Program Assistant
RCRA Branch
United States Environmental Protection Agency
77 West Jackson Boulevard
Chicago, IL 60604-3590